



U.S. SENATE COMMITTEE ON

Commerce, Science, and Transportation

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Statement by Senator Ernest F. Hollings
Hearing on "Promoting Local Competition: A Means to
Greater Broadband Deployment"
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The overriding principle that has govern telecommunications policy during the past three decades has been competition. Congress, regulators, and the courts since the 1970's have all held fast to the principles of competition, and as a result we have a dynamic and vibrant telecommunications marketplace -- one superior to that of any other country.

However, we are at a crucial juncture in telecommunications policy -- are we going to hold steadfast to the goal of competition, and allow it to continue guiding our decision making, or are we going to allow groups with other objectives in mind to guide our actions? These groups include today's local market monopolies, who are seeking to use the issue of broadband to stave-off implementation of competition policy, so as to preserve their local market monopolies, while simultaneously working to extend that monopoly into the emerging advanced services markets, such as broadband.

As we fight legislatively to promote competition, last week the supreme court reaffirmed its own commitment to competition. In support of the claims of the FCC and competitors, the supreme court rejected arguments of the Bells and upheld the FCC's methodology for establishing the rates Bell companies can charge competitors for access to their network. The Bells had argued before the Supreme Court as they have argued before Congress that the FCC established rates are too high. Justice Souter stated that the existing investments of over \$100 billion by the Bells affirm the common sense conclusion that so long as the FCC's rate structure brings about some competition, the incumbents will continue to have incentives to invest and to improve their services to hold on to their existing customer base.

I most certainly support the deployment of broadband nationwide and it can be accomplished without compromising competition. In fact, I believe it is through a combination of policies such as -- competition, loan programs, tax credits, consumer privacy protections, and addressing the "demand" problem -- that broadband can be achieved. There is no silver bullet here, and an approach that destroys competition will undoubtedly undermine the deployment of broadband and other innovations. Such an outcome would set communications policy back for decades.

We have come too far to regress at this point. The 1970's became a turning point in telecommunications policy. It was at this point that legislators, regulators, and the courts began to work

to limit the power of AT&T's monopoly and promote competition. In 1984, the court took the step of requiring AT&T to divest its local network creating 7 regional Bells. As a result of this action, consumers obtained improved service quality and lower prices in the long distance market, and AT&T invested heavily in its network upgrading its lines from copper to fiber.

Congress continued this competitive approach when it passed the Telecommunications Act of 1996. As we expected, the work Congress did in 1996 to promote competition has driven the monopolies to innovate and provide broadband service. According to Probe Research Inc., Verizon already has 79 percent of their lines DSL capable, BellSouth has 70 percent and SBC and Qwest have 60 percent. Bell companies have invested over \$100 billion and competitive carriers have invested over \$56 billion in deploying new facilities and upgrading their existing facilities. As a result of these investments as well as the investments of cable companies, approximately 85 percent of U.S. households have access to broadband.

However, as competitors have exited the marketplace, incumbent Bell and cable monopolies have increased prices and have demonstrated no real desire to compete head to head. Recently, when asked whether Verizon would lower the price for broadband service from \$50 to compete with cable which charges about \$40, Ivan "Seidenberg said no, that Verizon wouldn't 'discount' to match cable prices."

With that said, my concern is twofold. First, that we not accept the unfounded legislative and regulatory proposals of the bell companies that destroy competitors and have nothing really to do with broadband deployment. Congress and the courts certainly did not conclude that AT&T had to maintain its monopoly in order for it to upgrade its long distance network from copper to fiber. In fact in the 1980's, AT&T was under a consent decree to divest its local network when it spent millions of dollars to upgrade its copper network to fiber. Incumbent cellular companies began upgrading their networks from analog service to digital service when Congress introduced competition into the marketplace from PCS carriers who built new digital networks. Wireless companies are now seeking to provide third generation service. They haven't based this facilities upgrade on gaining some new regulatory scheme from Congress.

My second concern is that policy makers commit to maintaining competition as the cornerstone of communications policy and that we conduct an honest examination of what it will take to really ensure that competition takes hold in the local telecommunications market.

- Congress took the mildest approach to promoting competition in the Telecommunications Act of 1996 -- that is it outlined what monopolies needed to do to allow competition to emerge. In response, Bell companies broke their promises, and have spent their time litigating the act, stonewalling their competitors, and misleading policy makers that somehow eliminating their competitors will result in the deployment of innovative new services. Even though the Supreme Court has upheld the competitive provisions of the Act, Bell companies have not slowed down their anti-competitive conduct.
- In contrast, in 1984, in order to foster competition, the court required AT&T to divest

itself of its local facilities. This had the result of irreversibly introducing competition in the long distance market.

- Also, the FCC has from time to time imposed structural separation such as when it required, Bell companies to provide cellular services through a separate subsidiary in 1981 and enhanced data services through a separate subsidiary in 1980. It has also required companies to divest properties during mergers when competition would be harmed.

As policy makers, we are protectors of consumers and the public interest. It is our duty to pursue and adopt real options that have been proven to promote competition in the local telecommunications market including functional separation. It is also imperative that we stay the course now that the Supreme Court has provided legal certainty by resolving that last major legal issues with respect to the 1996 Act.

With that said, I welcome, our witnesses who will share the challenges faced by policy makers in promoting local competition and broadband deployment.